

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	1906.02
COMPLAINT INVESTIGATOR:	Connie Rahe
DATE OF COMPLAINT:	April 25, 2002
DATE OF REPORT:	May 23, 2002
REQUEST FOR RECONSIDERATION:	yes/revised July 11, 2002
DATE OF CLOSURE:	August 16, 2002

Due to the need to obtain additional information during the course of the associate superintendent's review in response to the request for reconsideration, the deadline for the response to the reconsideration was extended to July 12, 2002 from the original deadline of June 25, 2002.

COMPLAINT ISSUES:

Whether the Anderson Community Schools and the Anderson Community Special Education Cooperative violated:

- 511 IAC 7-25-5(c) by failing to take appropriate action within ten business days of the date of the parent's written request for an independent evaluation on two separate occasions:
- December 10, 2001; and
 - April 2, 2002.

FINDINGS OF FACT:

1. The Student is 14 years of age, and qualifies for special education and related services as a student with autism spectrum disorder.
2. The Student was initially evaluated in December 1999. At the CCC meeting convened on January 19, 2000, the school psychologist who evaluated the Student raised the possibility that the Student's problems may not be due to an emotional disability and recommended additional testing to "rule out" Asperger's syndrome. Additional evaluations were conducted in January and February 2000, and the CCC reconvened on February 15, 2000.
3. The *Discussion Summary* from the February 15, 2000, CCC meeting includes the CCC's discussion of the indicators of Asperger's syndrome. The school psychologist reported that the Student exhibits "several of the attributes [of Asperger's syndrome]"; however, she also reported she "was not sure if [the Student] has Asperger's." She recommended that the "parents [seek] neurological screening from their Dr." The *Summary* notes further state: "Dr. Scott does not feel [the Student] meets the criteria for Asperger's syndrome, but feels [the Student] qualifies for SPED under an emotional handicap. Once Asperger's was disregarded, but cautioned to keep an eye on, the eligibility for an emotional handicap was addressed." The Student was determined eligible for special education as a student with an emotional handicap.

4. In a letter written to the Director on December 10, 2001, the parents requested a particular diagnostician conduct an independent educational evaluation of the Student. The parents reiterated this request at a CCC meeting on December 17, 2001.
5. On December 20, 2001, the school sent the parents a letter of response, both to the December 10 written request and the December 17 verbal request for an independent evaluation. The letter from the director states that the parents' request for an independent evaluation is premature, questions the request in light of the private physician's recent diagnosis of Asperger's, and requested the opportunity for the school to conduct its own evaluation. A *Permission for Educational Evaluation* for the school to conduct an evaluation was enclosed, but the parents did not sign or return the form. In February 2002, the CCC changed the student's eligibility classification from emotional handicap to autism spectrum disorder, based on information from the Student's physician.
6. The parents sent another letter to the director on April 2, 2002, again requesting that an independent evaluation be conducted by a specific diagnostician. In the school's letter to the parents, dated April 8, 2002, the director requests that the parents "clarify what [they] feel would be the purpose of further evaluation" given the physician's diagnosis of Asperger's, as well as how an evaluation would remedy the parents' concern that "guidelines put in place are still inadequate." The director also reiterated that the school had experts who could evaluate the Student. The parents did not reply to this letter.
7. The school has not notified the parents in writing, in response to either of the parents' requests for an independent evaluation, that the school will pay for an independent evaluation, nor has it initiated a due process hearing to determine that the school's evaluation is appropriate

CONCLUSION

511 IAC 7-25-5(b) requires the school to take one of two courses of action upon receipt of a parent's request for an independent educational evaluation: it must notify the parent that it will pay for the independent evaluation or initiate a due process hearing to show that its evaluation is appropriate. Although the school may inquire as to why the parent believes an independent evaluation is necessary, there is no requirement that the parent indicate the nature of the disagreement with the school's evaluation, nor can the school delay in taking the required action. Further, 511 IAC 7-25-5 contains no requirement that a request for an independent evaluation be made within a specified period of time from the school's evaluation. Findings of Fact #2 and #3 reflect that the school evaluated the Student, in part, to rule out Asperger's syndrome. Findings of Fact #4 and #6 establish that the parent made two written requests for an independent educational evaluation a number of months subsequent to the evaluations conducted by the school. Findings of Fact #5 and #6 indicate that, although the school responded to the parents' requests, neither response contained any reference to either of the requisite courses of action. Although the school may offer the parent another evaluation conducted by the school in addition to the requirements of 511 IAC 7-25-5, such offer cannot be exclusive of paying for the independent evaluation or initiating a due process hearing. Therefore, a violation of 511 IAC 7-25-5 is found regarding the school's response to the parents' requests for an independent evaluation on December 10, 2001, and April 2, 2002.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Anderson Community Schools and the Anderson Community Special Education Cooperative shall notify the parents in writing, no later than July 26, 2002, whether it will provide an independent educational evaluation at the school's expense. **A copy of the school's letter to the parents shall be submitted to the Division no later than July 30, 2002.** If the school declines to pay for such evaluation, the school shall initiate a due process hearing no later than July 26, 2002, by filing such request with the Division no later than July 26.